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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 PATRICIA A. JOHNSON,

12 Plaintiff,

13 vs.

14 WELLS FARGO BANK, NATIONAL
ASSOCIATION as TRUSTEE; QUALITY
LOAN SERVICE CORP.,

15 Defendant.
16

CASE NO. 08cv2221- IEG (AJB)

ORDER DISMISSING FIRST
AMENDED COMPLAINT FOR
FAILURE TO STATE A CLAIM
[Doc. No. 4]

17 On December 10, 2008, this Court dismissed plaintiff's complaint *sua sponte* for a failure to
18 state a claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915(e)(2). (Doc. No. 3.)
19 In the December 10 order, the Court detailed the complaint's deficiencies and granted leave to amend
20 to cure those deficiencies. On January 2, 2009, plaintiff filed a First Amended Complaint alleging
21 defendants (1) counterfeited securities in violation of 18 U.S.C. 513(a) and (2) violated the Truth in
22 Lending Act by failing to give full disclosure. (Doc. No. 4.)

23 In her First Amended Complaint, plaintiff has rearranged the text of the Original Complaint,
24 but only added one new paragraph:

25 Only by Appointment of an Article III Court Justice and Common Law
26 Proceedings before a well informed Jury who understands the rules of
27 Common Law and a Special Grand Jury Investigation, Appointments
of Article II Court Guidelines under the separation of power act and the
following: Challenge under Title 5 556(D).¹

28 ¹ The cited statute, 5 U.S.C. § 556(d), governs the procedure for administrative hearings;
therefore, the statute is inapplicable to the current proceeding.


(FAC at 11, Doc. No. 4.) The addition of this paragraph does not cure the deficiencies detailed in the Court's December 10 order. (Doc. No. 3.) In that Order, the Court discussed, in detail, two fatal flaws with plaintiff's complaint: (1) as to claim one, the complaint fails to allege facts to support her claim that her mortgage was counterfeited; and (2) as to claim two, the complaint does not allege the defendants failed to make any of the disclosures required by the Truth and Lending Act. (Dec. 10, 2008 Order at 2- 4, Doc. No. 3.) Plaintiff has failed to address these flaws in her First Amended Complaint.

CONCLUSION

For the foregoing reasons, the First Amended Complaint is DISMISSED WITHOUT PREJUDICE for failing to state a claim upon which relief can be granted. Plaintiff is GRANTED thirty (30) days from the file date of this Order to file a Second Amended Complaint addressing the two deficiencies set forth above. If the Second Amended Complaint does not cure the deficiencies, the Court is disinclined to grant additional leave to amend. For greater explanation of these deficiencies, the Court directs plaintiff to the December 10 Order. Plaintiff is cautioned her Second Amended Complaint must be complete in itself, without relying on references to the First Amended Complaint or the Original Complaint. Plaintiff is further cautioned any defendant not named or claim not re-alleged will be considered waived. See King v. Attiyeh, 814 F.3d 1172, 1177-79 (9th Cir. 1996).

IT IS SO ORDERED.

DATED: February 12, 2009


IRMA E. GONZALEZ, Chief Judge
United States District Court